

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RONALD GONDA	)	CIVIL ACTION NO. 00-2286
	)	
Plaintiff,	)	DONETTA W. AMBROSE
	)	
v.	)	CHIEF JUDGE
	)	
METROPOLITAN LIFE	)	
INSURANCE COMPANY	)	
AND WILLIAM FRIEDT, JR.	)	
	)	
Defendants.	)	

**PLAINTIFF'S PRE-TRIAL STATEMENT**

And Now Comes the Plaintiff, Ronald Gonda by and through his attorneys, Kenneth R. Behrend file the following Plaintiff's Pre-Trial Statement and aver in support thereof the following:

On or about November 28, 1995, Robert Gonda commenced this action by filing a Writ of Summons in the Court of Common Pleas of Allegheny County, Pennsylvania. Defendants removed the action to the United States District Court for the Western District of Pennsylvania on November 16, 2000.

Plaintiff's claims arose from Defendants' misrepresentations made at the time of sale concerning material terms of MetLife whole life policies sold to Plaintiff in 1991 and in 1994.

In March of 1992, William Friedt, Jr. contacted Ronald Gonda by telephone to set up an appointment to review his insurance.

On or about March 25, 1992, William Friedt, Jr. met with Ronald Gonda, an individual with accumulated cash value in an existing policy, and attempted to induce him to replace his existing insurance policy with a product through Metropolitan Life.

William Friedt, Jr. learned of Mr. Gonda's existing policy, and he was targeted for

“Replacement” because of the accumulated cash value in his existing policy.

Mr. Gonda was the owner of a Pruco Life Insurance policy with a face value of \$50,000.00. Under the terms of this policy, he had a monthly premium of approximately \$50.00.

When Mr. Friedt reviewed Mr. Gonda’s existing Pruco life insurance policy he represented that the product he was selling would provide Mr. Gonda with approximately \$64,000.00 in life insurance benefits, for a premium payment of \$50.50, or \$.50 (fifty cents) more per month than was paid on the Pruco policy.

William Friedt also represented that Mr. Gonda would no longer need the coverage provided by his Pruco life insurance policy and that he could cash surrender his existing Pruco life insurance policy.

William Friedt provided Mr. Gonda with illustrations to support his oral representations.

Metropolitan Life trained its agents to use its software and/or computer programs to generate misleading policy illustrations which supported their misleading oral representations concerning the time frame in which a policy holder would be required to pay premiums on these policies. In this case Mr. Friedt took Metropolitan Life's misleading computer generated illustrations one step further to defraud Mr. Gonda, William Friedt generated misleading and fraudulent policy illustrations from his own computer and used his homemade illustrations to complete the deceptive, fraudulent and illegal sale to Mr. Gonda.

William Friedt, on behalf of Metropolitan Life, also represented that he could structure the policy for Mr. Gonda, so that he would only have to pay out-of-pocket premiums for ten (10) years, and then the policy would qualify for the Accelerated Payment Plan, the policy would be paid up and the premiums would “vanish”.

William Friedt, then provided Mr. Gonda with computer generated illustrations to support his oral misrepresentations that his out-of-pocket premiums payments would vanish in ten (10) years.

Mr. Gonda did not know the truth regarding them, but believing that the representations and statements were true and that the Defendants were looking out for his best interests, reasonably and justifiably relied upon them and was induced to:

- a. sign an application for a \$64,667.00 face value Whole Life, life insurance policy;
- b. cash surrender his existing Pruco life insurance policy; and
- c. unwittingly allow the cash surrender value of his Pruco life insurance policy to be deposited in Metropolitan policy 925-207-015-A.

On or about May 2, 1992, policy # 925-207-015-A was delivered to Mr. Gonda

At this time, Mr. Gonda asked William Friedt, Jr. about the proceeds from the cash surrender of his Pruco Life Insurance Policy, to which Mr. Friedt answered that he had invested the money for Mr. Gonda, so that he would not have to pay taxes on the money.

In reality, Mr. Friedt put the cash surrender proceeds of Mr. Gonda's Pruco policy into policy 925-207-015-A.

Furthermore, William Friedt, Jr. did not inform Mr. Gonda that the plan proposed for funding this product would not function in the manner in which he was led to believe it would, when he was induced to sign the application for the product.

It was not until May 1994 that Mr. Gonda first suspected that there was a problem with the product he had purchased from Metropolitan Life and Mr. Friedt.

The conduct of Mr. Friedt was outrageous, in that he intentionally, or with reckless indifference to the rights of Mr. Gonda:

- a. approached Mr. Gonda and induced his trust as an agent for a Billion Dollar Company, Metropolitan Life with the specific intent of defrauding him;
- b. induced Mr. Gonda to replace his existing insurance policy with an insurance policy he knew or should have known Mr. Gonda could not afford through misrepresentations about the cost of the new policy, because it was financially beneficial to himself and Metropolitan Life;
- c.. induced Mr. Gonda to replace his existing insurance policy issued by another insurance company with one from Metropolitan Life;
- d. induced Mr. Gonda to purchase a replacement policy from Defendants by misrepresenting that the policy had "vanishing premiums", and that he would not need to make out-of-pocket premium payments after ten (10) years as the policy would be paid up;
- e. induced Mr. Gonda to purchase an inadequately funded, new policy from Defendants based computer generated illustrations that supported Defendants oral misrepresentations about the terms and benefits of the new policy;
- f. induced Mr. Gonda to purchase a life insurance policy he knew or should have known was destined to lapse;
- g. induced Mr. Gonda to cash surrender his Pruco life insurance;
- h. induced Mr. Gonda to unwittingly allow the proceeds from his cash surrendered Pruco life insurance to be deposited into Metropolitan policy 925-207-015-A; and
- i. took active efforts to insure that the true premiums on this aforementioned policy remained concealed from Mr. Gonda, because it concealed his fraud and allowed him to continue to collect premiums on the policy.

### **EXHIBITS**

- 1. Deposition Transcript of William Gerald Friedt, Jr. and all exhibits attached thereto;
- 2. Deposition Transcript of Ronald M. Gonda and all exhibits attached thereto;
- 3. Letter to Ronald Gonda from Robert Schwartz, Chairman of the Board, President

and Chief Executive Office of MetLife, thanking Mr. Gonda for joining the growing number of people choosing MetLife to help with their financial needs; (Bates No. RMG000001);

4. 50/50 Savings Plan Presentation Documents contained in Blue Binder delivered to Plaintiff, Bates No. RMG 000001-RMG000031

5. Document entitled "My Insurance, Financial and Estate Plans", with Jere Friedt, Jr.'s name on it, Bates No. RMG000002;

6. March 23, 1992, Document entitled 50/50 Personal savings Plan vs. Individual Retirement Account (I.R.A.) And Certificate of Deposit (C.D.), Bates No. RMG000003;

7. April 30, 1992 Whole Life Plus Illustration of Values of the Funding of a Retirement Plan prepared for Ronald Gonda, Bates No. RMG000004-RMG000005;

8. April 30, 1992 Whole Life Plus Illustration of Values of the Funding of a Retirement Plan prepared for Ronald Gonda, Bates No. RMG000006-RMG000008;

9. Policy No. 925-207-015-A, Metropolitan Whole Life Policy in the amount of \$64,667 dated April 27, 1992, Bates No. RMG000009-RMG000031);

10. April 28, 1992, Letter to Ronald Gonda regarding Paid-Up Additions Rider - Policy Number 925 207 015 A, Bates No. RMG000032;

11. Metropolitan Life Insurance Company Notice of Cash Surrender Payment, Bates No. RMG000033 - RMG000034;

12. April 27, 1993 Notice of Payment Due on Policy No. 925 207 015 A, Bates No. RMG000035-RMG000036;

13. Prudential Policy No. D80 263 288 Dated August 9, 1973, Bates No. RMG000041-RMG000085;

14. April 2, 1992 Letter from Leonard Niczky to Prudential Ins. Co. of America regarding replacement of Mr. Gonda's Prudential Policy, Bates No. MP2157000138;
15. Service Request Form dated January 21, 1994 cash surrendering Policy No. 925 207 015 A, Bates No. MP2157000025;
16. Policy Fact Sheet for Policy No. 925 207 015 A, Bates No. MP2157000028-MP2157000029;
17. Whole Life Illustration Dated March 25, 1992, Bates No. MP2157000032-MP2157000033;
18. May 6, 1992 Letter from Dan Roddy, MetLife Underwriter to Ronald Gonda regarding Policy No. 925 207 015 A, Bates No. MP2157000036;
19. April 27, 1992 Sonic Message Regarding Check-O-Matic Authorization, Bates No. MP2157000046;
20. Application for Life Insurance dated March 25, 1992, Bates No. MP2157000047-MP21570000-MP2157000052;
21. May 13, 1992 Sonic Message from Jere Friedt to Judy regarding Check-O-Matic Authorization, MP MP2157000071;
22. Request for Policy or Contract Data, "please waive 068 and set SI to pay 1A...", Bates No. MP2157000086;
23. Policy Information for Policy No. 925-207-015-A, Bates No. MP2157000104-136;
24. Policy Receipt and Delivery Log, Bates No. MP2157000137;
25. Letter from Gary Antonino to Craig Sabo dated March 1, 1991, Bates No.

MP2157000263;

26. January 29, 1991 Letter form William Friedt to Pittsburgh Region, Bates No.

MP2157000264

27. Sonic Message from Barbara La Chance to Robert Scott dated February 19, 1991,  
Bates No. MP2157000271;

28. October 29, 1993, Termination Letter to William Friedt from Robert Scott, Bates  
No. Bates No. MP2157000391;

29. October 25, 1993 resignation letter from William Friedt to Ronald Herrman, Bates  
No. Bates No. MP2157000393;

30. Termination Report, William Friedt, Bates No. Bates No. MP2157000395-  
MP2157000396;

31. Sonic message regarding state securities registration-William Friedt dated March  
5, 1992; Bates No. MP2157000401;

32. June 1, 1993, Letter from Ronald Herman to Gary Antonino regarding Complaint  
for sale of 50/50 program by William Friedt, Bates No. MP2157000404;

33. January 2, 1992 Letter from Ronald Herman to J.F. Smith Re: Customer  
Complaint, Bates No. MP2157000491;

34. November 11, 1991 Letter from MetLife to Robert Schwartz, Bates No.  
MP2157000495;

35. July 23, 1994 Sworn statement of William Friedt, Jr., Bates No. MP2157000490-  
542;

36. FIP Reports for William Friedt, Jr., Bates No. MP2157000543-589;

37. January 26, 1993 letter from William Friedt, Jr. to Ronald Herman regarding customer complaint, Bates No. MP2157000596-597;
38. December 21, 1993 letter from Commonwealth of Pennsylvania Insurance Department, Bates No. MP2157000615-623;
39. February 10, 1999 Letter from Russell Gremlich to the Pennsylvania Insurance Department; (Bates No. MP2157000636);
40. June 2, 1994 Letter from \_\_\_\_\_ to the Pennsylvania Insurance Department regarding sale of "Individual Retirement Benefit," Bates No. MP2157000678-680;
41. Deposition Transcript of Rebecca H. Greene, dated July 13, 1999, and all exhibits attached thereto, Bates No. MP4011003244-3498;
42. Deposition Transcript of David A. Levene, dated July 28, 1999, and all exhibits attached thereto, Bates No. MP4011003919-4303;
43. Deposition Transcript of Michael Levine, dated July 22, 1999, and all exhibits attached thereto, Bates No. 4011003499-3918;
44. Deposition transcript of Rebecca H. Greene, dated July 25, 2002, and all exhibits attached thereto in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087;
45. Deposition Transcript of Harry Kamen dated August 2, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.
46. Deposition Transcript of Harry Kamen dated November 2, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of

Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.

47. Transcript of Ted Athanassiades and Exhibits dated July 26, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.;

48. Deposition Transcript of Theodossios Athanassiades Exhibit 3 (Transcript pages from James K. Higgins v. MetLife, et al.)(Bates No. MP4011071494-MP4011071589, Exhibits (MP4011109466-MP4011111184)

49. Deposition Transcript of Crosby Engel and Exhibits dated April 30, 2003 in the case of Ihnat v. Metropolitan Life, in the Court of Common Pleas of Allegheny County, Pennsylvania, GD 94-17465;

50. Deposition Transcript of Wilhelmenia Taylor in Ihnat v. Metropolitan Life Insurance Company, et al. dated September 26, 2002 and all exhibits attached thereto;

51. Deposition Transcript of Wilhelmenia Taylor dated October 1, 2002 and exhibits in Ihnat v. Metropolitan Life Insurance Company, et al.

52. Deposition Transcript of Gould dated August 20 and 21, 2002 in the case of Ihnat v. Metropolitan Life; in the Court of Common Pleas of Allegheny County, Pennsylvania GD94-17465 and all exhibits attached thereto;

53. Deposition Transcript of Theodosios Athanasiades, and all exhibits attached thereto dated July 26, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company, in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division 95-13087;

54. Deposition Transcript of James L. Rayl in James L. Rayl vs. Metropolitan Life

Insurance Co., Inc. taken on February 25, 1998 - bates MP4011069546 through MP4011071493 including exhibits 1 through 54;

55. Deposition of James L. Rayl and all exhibits attached thereto, in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on April 13, 1998 - bates MP4011050061 through MP4011050078 including exhibits 55 through 58 - bates MP4011103537 through MP4011103564;

56. Pennsylvania Sales Practices Guide; (Bates No. MP0004002744);

57. Letter dated November 7, 1992 to Thomas LaBadia, re: Reappearing UL premiums from Jim Rayl; (Bates No. MP4011071046-7)

Memorandum from Barbara Timpano (Bates No. M069700330372-378)

58. Handwritten note, Re: Accelerated Payment Plan - Bates MP4011149698"

59. Documents Concerning Short Term Pay. Plan Illus. (APP) dated 2/4/80 - Bates MP4011149715 - MP4011149726

60. Documents Concerning the APP dated 6/9/80 - Bates MP4011149687 - MP4011149692

61. Memo Regarding Insert for APP dated 6/19/80 - Bates MP4011149681 - MP4011149681;

62. Release to Field force dated 8/20/80, re: Accelerated Payment Plan (APP) - Bates M109749230416 - M109749230417;

63. Publication Met Up-to-date 1980-4 = The Accelerated Payment Plan (APP) - Bates M109758200153 - M109758200160;

64. Re: Sales and Service Release - Accelerated Payment Plan - dated 12/12/80 -

Bates M089716241756 - M089716241757;

65. The Accelerated Payment Plan brochure date 04/1981 - Bates M129770180954 - M129770180956;

66. Re: Personal Life Insurance --Jan 1984 Portfolio Revisions- Life Paid-Up 95 - to Field Force from J.P. Maurer dated 12/15/83 = L95 developed for use in accelerated payment (APP) situations - Bates M099730690238 - M099730690240;

67. We are the Competition Newsletter dated 05/01/994 - Bates M059702500363 - M059702500368;

68. Gateway to Opportunity - Session I - Part A: Product Knowledge - L-95 manual - Bates M119772110251 - M119772110255;

69. Betty Ruhl's letter to T.M. Labadia re: Automation of the Accelerated Payment Plan (APP) dated 02/09/1987 - Bates MP925000042280 - MP925000042289;

70. Automation of the Accelerated Payment Plan (APP) Memorandum dated 02/21/1987 - Bates M119758940924 - M119758940932;

71. Paid-Up Additions Rider Task Force - July 12, 1987 meeting minutes dated 07/12/1987 - Bates M059703240068 - M059703240080;

72. Lowell H. Lamb's letter to Paid-Up Additions Rider Task Force re: Merchandising of Rider dated 7/22/1987 - Bates MP925000042557 -MP925000042558;

73. e-Mail subj Accelerated Payment Plan - What it is , What isn't It ?? -to field force western dated 10/14/87 - Bates M109749230474 - M109749230475;

74. Frank Dochniak's letter to T. LaBadia re: Accelerated Payment Plan (APP) Arrangements dated 10/21/1987 - Bates MP925000042170;

75. Thomas M. LaBadia's letter to A.F. O'Leary re: Accelerated Payment Plan (APP) dated 11/04/1987 - Bates MP925000042169;

76. Market Conduct Report of Metropolitan Life Insurance Company as of December 27, 1993 issued on February 11, 1994 by the Commonwealth of Pennsylvania Insurance Department; Bate No. MP4011102745-MP4011102961.

77. Report of Investigation into Sales Practices of Metropolitan Life Insurance Company issued on March 6, 1994 by the Florida Insurance Commission; (Bates No. MP4011167635-MP4011167815);

78. Connecticut Market Conduct report of Metropolitan Life;

79. Harold Leff's letter to Branch Managers and District Sales Managers re: Accelerated Payment Plan and Financed by Inforce Policies dated 12/24/1987 - Bates MP925000004819;

80. Accelerated Payment Plan (APP) Arrangement Release dated 01/21/1988 - Bates MLPH875003001376;

81. Accelerated Payment Plan Arrangement - Sales Office Instructions release dated 01/21/1988 - Bates MLPH875003001377 - MLPH875003001383;

82. Accelerated Payment (ACCEL PAY) Arrangement - Sales Office Instructions Manual dated 06/01/1988 - Bates MLPH5004248 - MLPH5004258;

83. Paid-Up Additions Rider MLIC letter dated 06/20/1988 - Bates M099730730749;

84. L-95 and the Competitive Edge letter dated 07/05/1988 from Alan Knepper to The Field Force - Bates M069702430269 - M069702430272;

85. Update to Prod Ref Library for Accelerated Payment Plan (APP) Product

Reference dated 08/17/1988 - Bates JJ067389 - JJ067441;

86. Re: Accelerated Payment Plan (APP) Arrangement -release to Field Force dated 8/17/88 - Bates M099730840119 - M099730840120;

87. Lowell H. Lamb's letter to Rebecca Green re: Sales illustrations - ECTA Corporation dated 10/14/1988 - Bates MP925000042630 -MP925000042631;

88. Letter to Rebecca Green re: One Payment Plan Using Paid-up Additions Riders (includes illustrations) dated 11/07/1988 - Bates MP925000042549-MP925000042551;

89. Manual CWS-Procedures for APP Initial Eligibility dated 12/06/1988 - bates MP0004002257- MP0004002286;

90. Re: Accelerated Payment Plan or A.P.P. -to All Customer Service Representatives from Frances Burdex, Teleservices dated 12/13/88- revised - Bates M109766910405 - M109766910406;

91. Manual - (APP) Accelerated Payment Arrangement-Sales Office Instructions dated 03/031/1989 - batesMP0004002232 - MP0004002249;

92. Letter to The Field Force Re: Mechanization of AP Arrangement Life Product Planning dated 03/13/1989 - bates MP0004002229 - MP0004002230;

93. Re: Control of Accelerated Payment Processing -to Policyholders Svcs Managers from Richard Schramm, PI Admin&Information Svcs dated 9/5/89 = decentralization of AP Processing to individual head office admin offices - Bates M119766700164;

94. Manual - Shortest APP - Bates M109731260114 - M109731260121;

95. TrackBook - Two Ways to Stop Paying Premiums - Accelerated Payment and PUAR - Bates M822102551204 - M822102551208;

96. PUAR Marketing Manual Project Review dated 06/19/1990 - Bates MP4011157506 - MP4011157518;
97. Actuarial memo on APP - Accelerated Payment Plan memo dated 07/12/1990 - Bates M129764330206;
98. The Enricher - also covers APP Campaign material dated 07/30/1990 - Bates M059702040191 - M059702040200;
99. Enricher Software Illustration Guide dated August 1990 - Bates MP4011149771 - MP4011149795;
100. Accelerated Payment (ACCEL PAY) Arrangement - Sales Office Instructions manual dated 09/01/1990 - Bates MLPH5003993 - MLPH5004009;
101. Addendum to PUAR - the Enricher - for Life Cycle Selling (Resource Book M10-M13) dated 9/25/90 - Bates M109759270441 - M109759270447;
102. Re: GET Involved - with the Accelerated Payment Plan -to Field Force from Charles Kavitsky dated 10/1/90 - Bates M109748020367;
103. With the Enricher and the Accelerated Payment Plan...dated 12/1990 - Bates M821800100665 - M821800100682;
104. Accelerated Payment discussion minutes dated 04/01/1991 - Bates M119757590071 - M119757590083;
105. Rebecca Green's letter to Larry Vranka re: Accelerated Payment Arrangement dated 03/30/1992 - Bates MP925000042946 -MP925000042948;
106. AP Eligibility Quotes - dated 4/13/92 - Bates M069702250147 - M069702250149;

107. Rebecca Green's letter to Jerry Ledingham re: Accelerated Payment Plan dated 04/14/1992 - Bates MP925000042944 -MP925000042945;

108. Southeastern Head Office Quantum Illustration Meeting - Training Illustration dated 08/26/1992 - Bates M119772460240 - M119772460268;

109. Guide to Basic Ledger System ( covering each preset sales strategy and how they can best work for you) - Bates M824601530477 - M824601530490;

110. AP Eligibility Quotes - dated 11/05/92 - Bates M069702250128 - M069702250130;

111. Accelerated Payment Cases eMail dated 11/05/1992 - Bates M109734760225" "Letter from Jim Rayl to a Metropolitan Life Vice-President stating that: We cannot afford to leave policyholders with the impression that AP is a done deal - dated 11/07/1992 - Bates MP4011070961 - MP4011070962;

112. Letter from Jim Rayl to Tom LaBadia, a Metropolitan Life Director of Customer Services and Communications regarding Referrals to AP as Paid-Up dated December 7, 1992 bates MP4011071038;

113. AP Processing - dated 12/16/92 - Bates M069702250153;

114. Letter from Jim Rayl to David Martin, a Metropolitan Life Director of Customer Services and Communications to the Vice-President of the MidAmerica Territory regarding Referral of Accelerated Payment Plan as Paid-Up dated December 23, 1992 - bates MP4011071027 - MP4011071029;

115. Letter from Jim Rayl, a Metropolitan Life Director of Customer Services and Communications to another Customer Services Director, Kathy Schoos regarding Accelerated

Payment Plan dated December 31, 1992 - bates MP4011071025;

116. AIMS - Straight Talk about Premiums and APP by Susan Schmidt Burstein - issue 1993-1 - Bates M109766730192 - M109766730197;

117. Article about APP and Reappearing Premiums memo dated 01/15/1993 - Bates MLPH875003001500;

118. Re: AP Quotes on Lapsed Policies - to Customer Service Reps from Lori Grant dated 1/20/93 - system will give you an eligibility quote on Lapsed policies - Bates M109766730191;

119. APP Communications (proactive) letter dated 05/23/1993 - Bates M059701651054 .. M059701651056;

120. Wilhelmenia J. Taylor's letter to Greg Doby re: Accelerated Payment Plan dated 06/02/1993 - Bates MP925000042458 -MP925000042459;

121. re: AP Processing - NWT meeting 10/21-22/93 letter to Mike Levine from Kevin Kirk dated 10/24/93 - Bates M069709350051 - M069709350053;

122. MetLife Product News - November 1993 = Met offers high guarantees and then beats them - Interest rate changes affect MetLife Dividends, APP Review, UL Rate Changes.- Bates M109759270051 - M109759270052;

123. re: A Proposed Strategy for Addressing APP to Michael Levine and Steve Orluck from Willie Taylor and Jacqueline Thoresz dated 11/19/93 - Bates M089709240044;

124. Proposed Strategy for Addressing APP letter dated 11/23/1993 - Bates MP4011003908;

125. APP - Commonly know in the industry as Vanishing Premium - articles - Bates

M059701650930 - M059701650932;

126. Proposed Strategy for Accelerated Payment Plan letter to Jacqueline M. Thoresz from Rebecca H. Greene dated 12/03/1993 - Bates MP4011003488;

127. A Proposed Strategy for the Accelerated Payment Plan (APP) dated 11/18/1993 - Bates MP4011003489 .. MP4011003498;

128. A Proposed Strategy for the Accelerated Payment Plan (APP) by Wilhemenia Taylor and Jacqueline Thoresz 11/18/93 letter dated 12/03/1993 - Bates M059701650939 - M059701650950;

129. Update on the APP Proposal letter dated 12/28/1993 - Bates M059701650926"  
"Update on the APP Proposal - letter dated 12/28/1993 - Bates M059701650927 - M059701650929;

130. Accelerated Payment Plan release dated 01/03/1994 - Bates M059701650495 - M059701650496;

131. Letter Regarding Proposed Strategy for APP dated 1/11/94 - Bates MP4011145513 - MP4011145513;

132. A Proposed Strategy for the Accelerated Payment Plan (APP) by Wilhemenia Taylor and Jacqueline Thoresz 11/18/93 - letter dated 01/12/1994 - Bates M059701650689;

133. J. L. Rayl letter to Robert J. Crimmins, dated 01/19/1994 - Bates MP4011070354 - MP4011070359;

134. Straight Talk about Premiums and APP by Susan Burstein dated 02/01/1994 - Bates M129759740003 - M12975974000;

135. AP Processing - early 1994 items on processing dated 03/06/1994 - Bates

M069702250173 - M069702250174;

136. Accelerated Payment Plan - Payment Options letter dated 04/04/1994 - Bates  
M069700980690 - M069700980695;

137. Vanishing Premiums AP Arrangement, etc note date 04/11/1994 - Bates  
MP4011003102;

138. Request from Mr. Tweedie Concerning UL Customers with Target Premiums  
Inadequate to Carry Policies letter dated 04/11/1994 - bates MP4011003103 - MP4011003104;

139. Accelerated Payment Arrangement - Revised APP Policyholder Letters dated  
04/18/1994 - Bates M059701650299 - M059701650312;

140. AP letter to Crimmins from FP Lynch dated 5/12/94 - in response to your request  
to move more quickly on APP notification and eligibility - Bates M069703650863 -  
M069703650872;

141. The MetLife Sales Practices Guide - Pennsylvania - Bates M069705340031 -  
M069705340048;

142. Accelerated Payment Arrangement (APP)- Natural Work Team Meeting doc  
dated 06/07/1994 - Bates M059701650221 - M059701650236;

143. E-Mail date 6/26/94 In the last two weeks we've managed to decelerated the  
accelerated payment arrangement process - Bates M069702320538;

144. Re: AP Illustrations - letter to Darlene from Cheryl dated 7/19/94 - Theresa  
Hornsby called to tell me there is definitely a problem with the cash value being guaranteed and  
she is going to pursue the problem with Marketing, etc. - Bates M069702250267;

145. Vanishing Premium letter from Greg Doby dated 08/02/1994 - Bates

M069700100662 - M069700100688;

146. Comments on Draft AP brochure doc dated 08/24/1994 - Bates M059701651128 - M059701651140;

147. AP NWT conference call summary eMail dated 09/14/1997 - Bates M069702320290;

148. AP Consumer Brochure - Revised Copy dated 09/23/1994 - Bates M069702320233 - M069702320243;

149. Letter from Jim Rayl to the Vice-President of Personal Insurance customer service Re: Customer Complaint - Changing Dividend Basis dated September 29, 1994 - bates MP4011071016;

150. MetLife's Accelerated Payment Arrangement brochure - Bates M059702450432 - M059702450441;

151. MetLife's Accelerated Payment Arrangement .. an alternative to paying premiums out-of-pocket (10/94 brochure) with 1995 update - Bates M069702250734 - M069702250741;

152. Documents Concerning the APP Natural Work Team dated 10/10/94 - Bates MP4011159417 - MP4011159443;

153. AP Consumer Brochure letter dated 10/17/1994 - Bates M069702320201 - M069702320202;

154. AP Arrangement dated 10/26/94 as edited by Alan Kandel - sample reports to be mailed to policyholders for the Sales Rep's Informational purposes - Bates M069702320215 - M069702320219;

155. Letter from Jim Rayl to the Vice-President of a Metropolitan Life customer

service center Re: Consumer Education Wish List: dated October 28, 1994 - bates  
MP4011071009-014;

156. MetLife's Accelerated Payment Arrangement Brochure letter dated 11/14/1994 -  
Bates M109734240016 - M109734240017;

157. E-Mail on AP mailing related material - Nov 1994 - will be produced but not  
mailed E-Mail dated 11/22/1994 - Bates M069702320176;

158. Accelerated Pay Paid to Dated Errors eMail dated 12/24/94 during Processing of  
Dec 20th - Bates M069702250415;

159. Status of AP Natural Work Team Project and Update on UL I Natural Work  
Team Projects letter dated 12/30/1994 - Bates M059701242899 - M059701242900;

160. Letter from Jim Rayl to the Senior Business Systems Consultant: Traditional  
Portfolio and Dividends for the Personal Insurance line of business dated January 3, 1995 - bates  
MP4011071008;

161. Accelerated Payment and UL I note dated 01/10/1995 - Bates MP4011003105;

162. Accelerated Payment and UL I Notification Status letter dated 12/21/1994 - Bates  
MP4011003106;

163. Collection of AP mailing related material - Dec 1994 release dated 01/10/1995 -  
Bates M069702320139 - M069702320140;

164. AP Arrangement - about notification of policyholders letter dated 01/11/1995 -  
Bates M069702251058 - M069702251062;

165. DWI - Surrender of Value, vanishing premiums software problems with Pay One  
and Done (Accelerated Vanish) letter dated 01/13/1995 - Bates M109712580024;

166. AP NWT - Field Announcement for AP Letters dated 1/19/95 - Bates M069703650030 - M069703650047;
167. Collection of AP related material dated Jan, 1995 - includes cost consideration of customers brochure - lapse of some policies etc - Bates M069702320440 - M069702320443;
168. Consumer Education Program for APP Arrangement letter dated 02/07/1995 - Bates MP4011003093;
169. Accelerated Payment (AP) arrangements Memorandum dated 02/08/1995 - Bates MP4011003107 - MP4011003108;
170. Consumer Education Program for MetLife's Policyholders on Accelerated Payment (AP) arrangement letter dated 02/15/1995 - Bates MP4011003094 - MP4011003099;
171. AP Arrangement Proposals letter dated 2/19/1995 - bates MP4011003109 - MP4011003110;
172. Re: Consumer Education - Accelerated Payment Arrangement -to Bill Barnewold from Kevin Kirk dated 2/16/95 - takes exception to the four proposals made in Barnewold's Feb 15 letter and offers a fifth proposal.- Bates M109758970393;
173. Re: Consumer Education - Accelerated Payment Arrangement -to Bill Barnewold from Greg Doby dated 2/17/95 - Bates M109758970398;
174. AP Field Letters, several questions about why they are now sending letters etc. eMail dated 02/17/1995 - Bates M129759740127;
175. E-Mail subj Consumer Education / AP -to Bill Barnewold from C.J. Furugia dated 2/27/95 - about mailing to 15,000 policyholders whose policies will collapse before the end of their premium paying period - Bates M109758970387;

176. AP - Sales Release e-mail dated 3/10/95 - Bates M069709350429 ..  
M069709350431;
177. AP Arrangement Customer Communications release dated 03/10/1995 - Bates  
M069702251264 - M069702251288;
178. Accelerated Payment (AP)Arrangement Customer Communications letter dated  
03/27/1995 - Bates M109711000219;
179. Janet Rightor's e-mail re: New AP Screen dated 04/25/1995 - Bates  
MP925000042476;
180. Accelerated Payment (AP) Arrangement letter dated 05/01/1998 - Bates  
MP4011003100 - MP4011003101;
181. New Life Paid-Up at 98 Policy release stating Illustrative Accelerated Payment  
performance was preserved dated 05/08/1995 - Bates M099760170131 - M099760170132;
182. Accelerated Payment - Customer Feedback Survey results dated 06/15/1995 -  
Bates MP4011159913; MP4011159915 -MP4011159917; MP4011159920; MP4011159922;  
MP4011159924; MP4011159926; MP4011159930; MP4011159940; MP4011159942;  
MP4011159948; MP4011159952; MP4011159956; MP4011159962; MP4011159978;  
MP4011159984; MP4011160006;
183. Vanishing Premium Letter to Anthony C. Cannatella, Exec VP NYHO from  
Lawrence Brewster Mktg VP Northeastern Terr. dated 09/01/1995 - Bates M059701650621 -  
M059701650622;
184. E-Mail from W. Barnewold to Distrbution, Subject Customer Education For AP  
dated 09/13/1995 - Bates MP4011159916;

185. Accelerated Payment Arrangement-Option Program - trackbook script - Bates M119771480001 - M119771480013;

186. Accelerated Payment Arrangement (AP) Option Program letter to The Field Force from Joseph W. Jordan, Sr VP dated 08/18/1997 - Bates MP4011003111 - MP4011003120;

187. 1984 Dividend Scale - U. S. Ordinary Life, 1983 Memorandum - Bates MP4011004147 - MP4011004148;

188. Meeting of the Executive and Dividend Policy Committee at Home Office January 25, 1983 - Bates MP4011004141 - MP4011004142;

189. page 3 - recommendation for change in Dividend Scale eff 7/1/83 dated 03/08/1983 - Bates MP4011004132 - MP4011004133;

190. Accelerated Payment Plan Illustration letter dated 03/31/1983 - Bates M109748380396;

191. Actuaries' Report on Personal Life Dividends memo dated 04/08/1983 - Bates MP4011004090;

192. Actuary's Report on the Determination of Metropolitans Life's 1982 and 1983 Dividend Scales for Personal Life Insurance in the United States dated 04/08/1983 - Bates MP4011004091 - MP4011004131;

193. Appendix V - Expense Classes procedure dated 04/08/1983 - Bates MP4011004185 - MP4011004186;

194. Appendix VI - Calculation of Dividend Expense Factors procedure dated 04/08/1983 - Bates MP4011004187;

195. U. S. Ordinary Life Dividend Scales for 1984 Memorandum dated 04/14/1983 -

Bates MP4011004143 - MP4011004146;

196. The agenda for our meeting at 11:00am on April 26, 1983 Memorandum - Bates MP4011004140;

197. Meeting of the Executive and Dividend Policy Committee at Home Office April 26, 1983 minutes dated 04/26/1983 - Bates MP4011004134 - MP4011004137;

198. May 24, 1983 Meeting of the Board of Directors Dividend Recommendations on Ordinary Life Insurance Policies letter dated 05/14/1983 - Bates MP4011004149 - MP4011004150;

199. Actuarial Statement of Opinion dated 05/17/1983 - Bates MP4011004151;

200. Board Resolution - May 24, 1983 - Dividend on Ordinary Life Insurance Policies - Bates MP4011004152;

201. Board Resolution - May 24, 1983 - Actuaries' Memorandum 83-5 - Bates MP4011004153 - MP4011004157;

202. Capture the Market Update letter dated 08/08/1983 - Bates MP4011004089;

203. Competitiveness of 1984 Ordinary Life Dividend Scales letter dated 09/19/1983 - Bates MP4011004158 - MP4011004159;

204. December 13, 1983 Board of Directors Motion - Bates MP4011004161;

205. 1984 Dividend Scale Recommendations letter dated 03/15/1984 - Bates MP4011004160;

206. 1985 Dividend Scales - U.S. Ordinary Life letter dated 03/27/1984 - Bates MP4011004162;

207. Recommendations for 1985 Dividend Scales - U.S. Ordinary Life letter dated

03/21/1984 - Bates MP4011004163;

208. 1985 Dividend Scales - Ordinary Life Insurance Memorandum dated 03/21/1984 - Bates MP4011004164 - MP4011004178;

209. 1986 Dividend Scales - Ordinary Life Draft Letter dated 03/1985 - Bates MP4011004179 - MP4011004181;

210. Personal Insurance Committee Meeting of June 27, 1986 minutes dated 06/30/1986 - Bates MP4011004182 - MP4011004184;

211. 1987 Dividend Scales - Personal Life Insurance and Annuities Met Life Ins Co release dated 01/12/1987 - Bates MP4011004190 - MP4011004191;

212. 1987 Portfolio - Illustrative Dividends letter dated 10/09/1986 - Bates MP4011004188 - MP4011004189;

213. History of Deferred Income Assets dated 07/01/1987 - Bates MP4011004201 .. MP4011004217;

214. "Ordinary Life Insurance - Proposed 1988 U.S. Dividend Scales Memorandum dated 07/09/1987 - Bates MP4011004192 - MP4011004200;

215. 1988 U. S. Ordinary Dividend Scale letter dated 10/23/1987 - Bates MP4011003849 - MP4011003850;

216. Appendix B - Market the Product not the Illustration DRAFT Release dated 05/1988 - Bates MP4011004225 - MP4011004232;

217. Major Issues - Preliminary Dividend Recommendations 1989 Scale Memorandum dated 05/24/1988 - Bates MP4011003859 - MP4011003867;

218. 1990 Dividend Recommendations - Personal Lines of Business - Preliminary

Proposal letter dated 05/31/1988 - Bates M099717300577 - M099717300578;

219. Background Memorandum 1989 Dividend Proposals dated July 24, 1988 - bates M019817630445 - M019817630452;

220. Major Pros and Cons regarding a dividend reduction for 1990 letter dated 05/30/1989 - Bates MP4011003868 - MP4011003869;

221. Preliminary Dividend Recommendations 1990 Dividend Scales - United States Business letter dated 07/12/1989 - Bates MP4011003870 - MP4011003873;

222. Preliminary Dividend Recommendations 1990 Dividend Scales - United States Business letter dated 07/13/1989 - Bates MP4011003874 - MP4011003878;

223. Schedule M from the Annual Statement for the Year 1989 - Bates MP925000000850 - MP925000000854;

224. Final Dividend Recommendation 1990 Scales 03/1990 draft - Bates M019817630062 - M019817630067;

225. Increase in Withdrawals From Dividend Balances Memorandum dated 03/22/1990 - Bates MP4011003835;

226. Withdrawals of Additional Insurance Dividend Balances fax dated 03/23/1990 - Bates MP4011003834;

227. Annual Report 1989 - FIP liberalization footnote letter dated 03/26/1990 - Bates MP4011003832 -MP4011003833;

228. Final Dividend Report to Management US Ordinary Life - 1990 Scales - dated 03/30/1990 - Bates M099717350202 - M099717350208;

229. 1990 Dividend Scale - Question-and-Answer Guide letter dated 04/06/1990 -

M129740290137;

242. Schedule M - General Interrogatories - 1994 - Bates M069704780614;

243. MetLife's Historical Credited Dividend Rates dated April 11, 1994 - bates  
M069702170274 - M069702170276; MP925000296367;

244. MetLife's Historical Credited Dividend Rates dated April 11, 1994 - bates  
M069702170274 - M069702170276; MP925000296367;

245. A Chart Comparing MetLife's Historical Credited and Illustrated Dividend Rates  
By Year - developed from Bates M0697021270274 - M069702120276 and MP925000296367;

246. Sales Illustrations - Explanation Page - Bates MP4011003082;

247. Approved Policy Illustration Software letter dated 09/30/1994 - Bates  
MP4011003083 - MP4011003084;

248. Schedule M - Statement of Actuarial Opinion, Etc.dated 11/23/1994 - Bates  
M069704780621 - M069704780622;

249. Memorandum from Anthony C. Cannatella to Field Force Re: 1996 Dividend  
Scale dated October 25, 1995. - Bates M059701060025;

250. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1988 - Bates MP925000001086 - MP925000001142;

251. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1989 - Bates MP925000000538 -MP925000000870;

252. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1989 - Bates MP925000001028 - MP925000001085;

253. Annual Statement of Metropolitan Life Insurance Company for the year ending

12/31/1990 - Bates MP925000000203 - MP925000000537;

254. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1990 - Bates MP925000000883 - MP925000000946;

255. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1991 - Bates MP925000001143 - MP925000001604;

256. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1992 - Bates M550100004505 - M550100005048;

257. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1993 - Bates M550100005049 - M550100005519;

258. MetLife 1994 Annual Report Highlights-Bates stamp documents- HAZEN001030  
thru HAZEN001033;

259. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/1995 - Bates MP925000012524 - MP925000012579;

260. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1996 - Bates MP925000012429 - MP925000012523;

261. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/1996 - Bates MP925000012580 - MP925000012633;

262. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1999 - Bates MP4011133001 - MP4011134640;

263. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/2000 - Bates MP4011134641 - MP4011135440;

264. Annual Statement of Metropolitan Life Insurance Company for the year ending

12/31/2001 - Bates MP925000326537 - MP925000327332;

265. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/2001 - Bates MP925000327333 - MP925000327413;

266. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/2002 - Bates Hazen\_001100 - Hazen\_001193;

267. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/2003 - Bates Hazen\_001194 - Hazen\_0011290;

268. Form 10-K for 2004 of the Annual Statement for METLIFE, Inc.-Bates stamp  
documents - HAZEN000635 thru HAZEN000986;

269. Bates No. MP0004026568-Video Tape of MetLife APP Research-Four Focus  
Groups;

270. Universal Life Interest Rates (Bates No. M109759650267);

271. Re:a report "A Proposed Strategy for the Accelerated Payment Plan (APP) Bates  
No. M069702320835-M069702320844.

272. Deposition Transcript of Michael Levine, dated July 22, 1999 and the exhibits,  
(Bates No. MP4011003499-MP4011003918.

273. Deposition Transcript of David Levene dated July 28, 1999, and the exhibits,  
(Bates No. MP4011003919-MP4011004303);

274. Memo from L. Michelle Ligon, J.D., Manager, Advanced Sales & Consulting  
Services, Metropolitan Life Insurance Company to Southeastern Associates, Dated January 5,  
1989, (Bates No. M821100440650);

275. Deposition Transcript of Wilhelmenia Taylor in Ihnat v. Metropolitan Life

Insurance Company, et al. dated September 26, 2002 and all exhibits thereto.;

276. Deposition Transcript of Wilhelmenia Taylor dated October 1, 2002 in Inhat v. Metropolitan Life Insurance Company, et al. and all exhibits thereto.;

277. Deposition of Anthony Cannatella and Exhibits dated December 14, 1994 (Bates No. 4011016193-16330)

278. Deposition of Robert Crimmons dated December 15, 1994 and exhibits (Bates Stamp numbered MP4011016331-16435)(Bates No. MP4011105606-105634)

279. VHS Tape-Metro News, September 1988 (Bates No. M8227000100010022)

280. VHS Tapes MetLife News Volume I 1986 (Bates No. M824201520048)

281. VHS Tapes MetLife APP Research-Four Focus Groups (Bates No. MP0004026568)

282. December 19, 1997, Letter from Daniel F. Harrigan, Program manger, Market Conduct Division, State of Connecticut to Harry P. Kamen, Bates No. MP925000316310-311.

283. State of Connecticut Insurance Department Stipulation and Consent Order, Bates No. MP925000229200-207.

284. November 29, 1993 Memorandum from Mike Levine to Anthony Amodeo, Bates No. MP92500075172-174.

285. Chart of Recently Closed, Open or Upcoming Investigations of Metropolitan Life, Bates No. MP925000170486-487.

286. Chart of MetLife State Fines and Forfeitures 2000, Bates No. MP925000327415-416.

287. MetLife Corporate Internal Audit - Individual Business - Ethics and Compliance

Bates No. MP925000017436-440.

288. MetLife Corporate Internal Audit - Audit of Policy Illustrations Compliance Bates No. MP925000156670-675

289. "MetLife Enhanced Ethics and Compliance Program Status Report dated January 1995 - Bates M933400010028 .. M933400010040"

290. Business Ethics Project Preliminary Report for MetLife Personal Insurance October 3, 1990 Revised October 9, 1990 by Beverly Loy Taylor - Bates No. MP4011145057 - MP4011145067

291. Business Ethics Project for MetLife Personal Insurance November 7, 1990 by Beverly Loy Taylor - Bates No. MP4011145015 .. MP4011145028

292. James L. Rayl Personal Insurance Development Review for 1991 - Bates No MP4011069740 .. MP4011069741

293. 1992 Accomplishments & Programs Customer Services & Communications, MetLife Customer Service Center - Tulsa - Bates MP4011069726 .. MP4011069739

294. Mike Levine's Nov 29, 1993 letter to Anthony Amodeo, Re: Inforce Universal Life and Single Premium - Bates No MP925000075172 .. MP925000075174

295. Deposition of James L. Rayl in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on February 25, 1998 - bates MP4011069546 through MP4011071493 including exhibits 1 through 54

296. Deposition of James L. Rayl in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on April 13, 1998 - bates MP4011050061 through MP4011050078 including exhibits 55 through 58 - bates MP4011103537 through MP4011103564

297. Transcript of Testimony of Crosby Engel in Lesoon v. MetLife, April 14-15, 2003  
Volume II, pp 233-293; Volume III, pp 295-320

298. All exhibits listed in Defendants' Pre-Trial Statement.

#### **LIABILITY WITNESSES**

1. A representative of Metropolitan Life who can authenticate any documents provided by Metropolitan Life to Plaintiff in discovery as business records produced by Metropolitan Life to Plaintiffs
2. Ronald M. Gonda  
220 Hinchberger Road  
Butler, PA 16001
3. Theodossios Athanassiades  
4436 Province Line Road  
Princeton, NJ 08540
4. Rebecca Greene  
9 Belair Road  
Norwalk, CT 06850-3323
5. Harry Kamen  
Town Line Road  
Wainscott, NY 11975
6. Beverly Loy Taylor  
5747 Woodmont Street  
Pittsburgh, PA 15217
7. James L. Rayl  
1824 South Gardenia Ave.  
Broken Arrow, OK 74012
8. Wilhelmenia J. Taylor  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652

9. Gregory Doby  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
10. Robert J. Crimmons  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
11. David A. Levene  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
12. Michael Levine  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
13. William Friedt, Jr.  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
14. Any and all Defendants' witnesses

Plaintiffs reserve the right to supplement this list.

#### **DAMAGE WITNESSES**

1. See List Above.

**EXPERT WITNESS**

1. Robert Carter  
130 Dorsey Station Road  
Louisville, KY 40223

**DAMAGES**

Compensatory Damages as set forth in the expert report of Robert Carter.

Statutory treble damages, costs, counsel fees, exemplary or punitive damages in addition, and such other relief as the court deems necessary and proper.

Plaintiff reserve the right to supplement the Pre-Trial Statement up until the time of trial.

Respectfully submitted,  
BEHREND AND ERNSBERGER, PC

/s/Kenneth R. Behrend  
Kenneth R. Behrend  
Pa. ID No. 37961  
BEHREND AND ERNSBERGER, PC  
306 Fourth Avenue Suite 300  
Pittsburgh, PA 15222  
(412) 391-2515  
(412) 391-2762 (facsimile)

**CERTIFICATE OF SERVICE**

I, Kenneth R. Behrend hereby certify that a true and correct copy of the foregoing Plaintiff's Pre-Trial Statement has been served upon all counsel of record by U.S. first-class mail, postage pre-paid or hand delivery on this 15th day of May, 2006, to the following:

B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
P.O. Box 652  
Newark, NJ 07101-0652

/s/Kenneth R. Behrend  
Kenneth R. Behrend  
Pa. ID No. 37961  
BEHREND AND ERNSBERGER, PC  
Firm ID No. 018  
306 Fourth Avenue, Suite 300  
Pittsburgh, PA 15222  
(412) 391-2515  
(412) 391-2762 (fax)